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Letter dated 25 April 2005 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to write to you on behalf of the Mediator of the African Union Mediation Mission on Côte d'Ivoire and attach the following documents for your consideration:

1. The Pretoria Agreement on the Peace Process in Côte d'Ivoire (annex I);
2. The letter of determination on article 35 of the Constitution of Côte d'Ivoire from the Mediator addressed to the Ivorian leaders (annex II).

I should be grateful if you would have these documents circulated as a document of the Security Council.

(*Signed*) Dumisani S. **Kumalo**
Ambassador and Permanent Representative

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Annex I to the letter dated 25 April 2005 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

[Original: English and French]

Pretoria Agreement on the Peace Process in Côte d'Ivoire

6 April 2005

1. At the invitation of the Mediator of the African Union, His Excellency Mr Thabo Mbeki, President of the Republic of South Africa, a meeting of the Ivorian political leaders was held in Pretoria from 3 to 6 April 2005. His Excellency Mr Laurent Gbagbo, President of the Republic of Côte d'Ivoire, Prime Minister Seydou Diarra representing the Government of National Reconciliation, former President Henri Konan Bédié, representing the Parti Démocratique de Côte d'Ivoire (PDCI), former Prime Minister Alassane Dramane Ouattara, representing the Rassemblement de Républicains (RDR) and Minister of State Guillaume Soro, Secretary General of the New Forces participated in this meeting. The meeting was chaired by President Mbeki.

2. The leaders reviewed the current situation in Cote d'Ivoire and took a number of decisions relating to outstanding issues on the implementation of the Linas-Marcoussis and Accra II and III Agreements. The Ivorian leaders reaffirmed:

   - their commitment to the Linas-Marcoussis, Accra II and III Agreements;
   - their commitment to the roadmap elaborated by the AU Mediator;
   - their commitment to all the resolutions of the United Nations on Côte d'Ivoire;
   - their commitment to respecting the sovereignty, independence, integrity and unity of the Côte d'Ivoire;
   - their determination regarding the need to organise presidential elections in October 2005 and legislative elections that follow immediately thereafter;
   - their sincere and joint willingness to create a political climate that is conducive to acquiring lasting peace rapidly;

   The meeting reemphasised its appreciation of the importance of the resolution of the Ivorian crisis in the interest of the Ivorian people, the West African region and Africa as a whole.

Joint declaration of the end of the War

3. The Ivorian parties that are signatories to the Pretoria Agreement hereby solemnly declare the immediate and final cessation of all hostilities and the end of the war throughout the national territory. In this regard, they unequivocally repudiate the use of force as a means to resolve differences amongst themselves. They acknowledged that the war has brought untold misery and suffering upon the Ivorian people. The war has also led to a serious decline of the economy of the Côte d'Ivoire with negative consequence for the West-African region. The Ivorian leaders hereby reaffirm the sacred right of the Ivorian people to peace and development.

The Mediator reiterated his disapproval and condemnation of the ceasefire violations on November 4 - 6, 2004, and on February 28, 2005; as well as the violence of 6 - 9 November 2004 and calls on all parties and Ivorian people in general, to work together to prevent incidences of violence and war.

Disarmament and Dismantling of the Militia

4. The parties agreed to immediately proceed with the disarmament and dismantling of the militia throughout the entire national territory. In this regard, the following implementation steps were agreed to:

   a. The Prime Minister of the Government of National Reconciliation will implement the Joint Operation Plan in order to achieve the disarmament and the dismantling of the militia.

   b. For this purpose, the President of the Republic, His Excellency Mr Laurent Gbagbo, Head of State, Chief of the Defence Force, Chairperson of the Defence Command Council, will select units of the Defence and Security Forces to assist the Prime Minister in his mission to disarm and dismantle the militia.

   These units of the Defence and Security Forces will be placed at the disposal of the Prime Minister and will be supported by the Impartial Forces.

Disarmament, Demobilisation and Reintegration (DDR)

5. It was agreed that the Chiefs of Staff of the National Armed Forces of the Côte d'Ivoire (FANCI) and the Armed Forces of the New Forces (FAFN) meet immediately in order to ensure the implementation of the National Disarmament, Demobilisation and Reintegration Plan (PNDDR).

   The two Chiefs of Staff will be supported by a team of experts appointed by the Mediation.

   The Chiefs of Staff have also been mandated to formulate specific recommendations in respect of the formation of one army based on values of integrity and republican morality and the restructuring of the defence and security forces as contemplated in paragraph 3 (f) of the Linas-Marcoussis Agreement. These recommendations should be submitted to the Government of National Reconciliation.

   In order to address the concerns expressed by the parties that are signatories to this Agreement, the Defence and Security Forces and the Armed Forces of the New Forces have agreed to meet on Thursday 14 April 2005 in Bouaké. The Prime Minister will join this important meeting, which will mark the resumption of contact between the FANCI and FAFN as well as the commencement of the DDR process.

Ensuring security in the area under New Forces' control

6. The parties that are signatories to this agreement admitted that there is a need to guarantee the security of people and assets as soon as the cantonment of the New Forces in the North commences and the following temporary and interim measures listed below will apply:

   a. Six hundred (600) individuals from the FAFN will be recruited and trained on the basis of national gendarmerie and police criteria that are in force. The training will be conducted under the auspices of the police component of ONUCI.

   b. These elements will be deployed alongside the ONUCI forces.

   c. As soon as the administration of the State is re-established throughout the national territory, the individuals concerned will return to the academy obtain further training at the police and gendarmerie academy with a view to their integration in the national police and national gendarmerie corps.

Security of the members of the Government from the New Forces

7. The parties that are signatories to this agreement accepted the plan proposed by the Mediation ensuring security for the New Forces Ministers of the Government of National Reconciliation.

   Consequently, the FN accepts to return to the Government of National Reconciliation.

Delegation of powers to the Prime Minister

8. It was agreed that the Prime Minister of the Government of National Reconciliation requires the necessary executive authority to accomplish his mission appropriately.
   It was agreed that the delegated powers that the Prime Minister has are sufficient to enable him to accomplish his mission in accordance with the Linas-Marcoussis Agreement.

   Consequently, the President of the Republic reaffirms the authority of the Prime Minister.

Independent Electoral Commission

9. The parties who are signatories to this agreement agree to make amendments to the composition, organisation and functioning of the current Independent Electoral Commission:

a. Composition and functioning of the Central Commission of the IEC:
   - Two (2) representatives nominated by each party that is a signatory to the Linas-Marcoussis Agreement, of whom six (6) from the New Forces;
   - Only representatives of the parties that are signatories to the Linas-Marcoussis Agreement as well as the representative of the President of the Republic and of the President of the National Assembly have a voting right.
   - A new amendment will be proposed to the National Assembly to allow all parties to designate representatives to the IEC.

b. Composition and functioning of the Bureau of the Central Commission
   - The members of the Bureau of the Central Commission are elected by the Central Commission
   - The Bureau of the Central Commission is made up of twelve (12) members in the following manner:
     - One (1) representative for each party that is a signatory to the Linas-Marcoussis Agreement, i.e. a total of ten (10) members;
     - One (1) representative of the President of the Republic;
     - One (1) representative of the President of the National Assembly.

c. Term of the members of the Central Commission
   - The term of the members of the Central Commission expires at the end of the general elections.

Organisation of elections

10. The parties that are signatories to the agreement are aware of the difficulties and the sensitivities related to the elections.

To ensure that free, fair and transparent elections are held, the parties agree that the United Nations be invited to participate in the work of the Independent Electoral Commission. For this purpose, they have mandated the Mediator, His Excellency Mr Thabo Mbeki to request the United Nations on behalf of the Ivorian People to participate in the organisation of general elections.

The parties extend the same request to the United Nations with respect to the Constitutional Council.

The United Nations must ensure that the requested intervention mission has an appropriate mandate and power to fulfil its function.

Composition of the Board of Directors of the Ivorian Radio and Television (RTI)

11. The RTI is an important institution that should be used to contribute to national unity and reconciliation.

Consequently, the programme of the RTI must immediately cover the whole national territory. It was also decided to restore the status of the RTI to that it enjoyed before 24 December 2004. Decrees 2004-678 and 2005-01 will be revoked forthwith.
Furthermore, the Minister of State Guillaume Soro, in consultation with the Prime Minister, will present a draft decree on the appointment of members of the board of directors of the RTI.
(Consequently the programme of the RTI should cover the whole territory; he

Re-tabling of laws before the National Assembly

12. The parties that are signatories to this agreement accepted the determination of the mediation regarding the adoption of the texts that emanated from Linas-Marcoussis.
They mandate the Prime Minister to instruct the ministers responsible for the drafting of the concerned draft laws for adoption by the National Assembly.

The signatories of the present Accord invite all the members of parliament of the nation to support these amendments, the adoption of which must be finalised by the end of April 2005.

Financing of political parties

13. The signatories of this agreement have accepted to extend the principle of financing of political parties to those parties that are not represented in Parliament due to the political context that prevailed in the past.

Eligibility to the Presidency of the Republic

14. The meeting discussed the matter of the finalisation of the amendment of the Constitution in relation to Article 35. Having listened to the views of the Ivorian leaders, the Mediator undertook to make a determination on this matter after consultation with His Excellency President Olusegun Obasanjo and the Secretary General of the United Nations, His Excellency Kofi Annan, which determination will be communicated to the Ivorian leaders. The Mediator will act expeditiously to finalise this matter.

Mechanism for ongoing consultation

15. The parties agreed that in the interest of peace in the Côte d'Ivoire there would be a rapprochement of the Ivorian political leaders. This action must continue after the Pretoria meeting. The parties also acknowledged that given the gravity and persistence of the crisis in Cote d'Ivoire, the need for national reconciliation will continue beyond the elections.

Interpretation of the agreement

16. Should there be a difference in interpretation of any part of this agreement, the signatory parties of this agreement agree that they will consult the Mediator for a ruling.

Motion of thanks

17. The Ivorian parties signatories to the Pretoria Agreement express their profound gratitude to His Excellency Mr Thabo Mbeki, President of the Republic of South Africa, Mediator of the African Union, for his personal commitment in the resolution of the Ivorian crisis, the Government and the South African people for their devotion, warm reception and hospitality that contributed to the rapprochement of the Ivorian political leaders with a view to the consolidation of peace and the continuation of the national reconciliation process in the Côte d'Ivoire.

18. The mediator expressed his sincere appreciation of the commitment of the Ivorian leaders to a speedy resolution of the Ivorian crisis.

HE Laurent GBAGBO
President of the Republic
of Côte d'Ivoire

Mr Henri Konan BEDIE
for the PDCI

Mr Alassane Dramane OUATTARA
for the RDR

Mr Guillaume SORO
for the New Forces

HE Seydou Elimane DIARRA
Prime Minister
of the Government of National Reconciliation

HE Thabo MBEKI
President of the Republic
of South Africa
Mediator of the African Union

SIGNED IN PRETORIA ON THIS 6th day of APRIL 2005

Annex II to the letter dated 25 April 2005 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

[Original: English]

11 April 2005

As you are aware, and by agreement with all the Ivorian parties, the African Union Mediation on Côte d'Ivoire has been carrying out its work within the framework provided by the Linas-Marcoussis and Accra Agreements.

Chapter III of the annex to the Linas-Marcoussis Agreement deals with the issue of eligibility to the Presidency of the Republic. It contains a text approved by all the signatories to the Agreement, which would amend article 35 of the Constitution of Côte d'Ivoire.

The Ivorian parties and the Mediation are therefore duty bound to ensure that the intention of the text agreed at Linas-Marcoussis is realized, which essentially seeks to respect the principle of inclusivity with regard to the important issue of eligibility to the Presidency.

As on previous occasions since the Linas-Marcoussis Agreement was concluded, during our meeting from 3 to 6 April in South Africa it proved difficult for the Ivorian parties to reach agreement about the steps that should be taken to give effect to the Linas-Marcoussis Agreement concerning article 35.

For this reason, given the urgent necessity to resolve this matter, as well as the need to honour the commitment made by the signatories of the Linas-Marcoussis Agreement, it has been agreed that the African Union Mediator should make a determination on this matter, and act expeditiously to finalize it.

The specific agreement in this regard is contained in paragraph 14 of the Pretoria Agreement on the Peace Process in Côte d'Ivoire of 6 April 2005.

As indicated in that paragraph, I have consulted both the Chairperson of the African Union, President Olusegun Obasanjo, and the Secretary-General of the United Nations, Kofi Annan.

They both support the decision reflected in paragraph 14 and agree that, to solve the crisis in Côte d'Ivoire, it is vitally important to respect the substance of the article 35 constitutional amendment contained in the Linas-Marcoussis Agreement.

They also agree that it is necessary to resolve this matter expeditiously, to enable the peace process to advance speedily and allow for the holding of the presidential elections in October 2005.

Consistent with the approach imminent in the Linas-Marcoussis and Accra Agreements, the Mediator is fully conscious of the need to respect the Constitution of Côte d'Ivoire, bearing in mind the adaptations that have to be made to provide for the implementation of the Linas-Marcoussis and Accra Agreements.

In this regard, the Mediator is fully aware of the requirements concerning constitutional amendments affecting the Presidency, as contained in article 126 of the Constitution of Côte d'Ivoire.

However, the Mediator believes that it is critically important that due consideration should be taken of the prescription contained in article 127 of the same Constitution, which prohibits any action that might undermine the integrity of the territory of Côte d'Ivoire.

It is a matter of common cause that currently Côte d'Ivoire is divided into two parts that are under the control of different administrations, which undeniably undermines the integrity of the territory.

With reference to article 48 of the Constitution of Côte d'Ivoire, it is obvious that the integrity of the territory of Côte d'Ivoire is threatened in a serious and immediate manner, and the regular functioning of the constitutional authorities has been interrupted.

As Mediator, and having listened carefully to all the presentations made by the leaders of Côte d'Ivoire, I had to take into account all the constitutional and other matters mentioned above as I considered my determination with regard to article 35.

In terms of the mandate given to the Mediator in paragraph 14 of the Pretoria Agreement, I, as Mediator, hereby determine that with reference to the 2005 presidential elections, the Constitutional Council should accept the eligibility of the candidates who might be presented by the political parties that signed the Linas-Marcoussis Agreement.

However, it is also important that we should respect the rule of law as we give effect to this determination. In this regard, we should not oblige the Constitutional Council to act in an illegal manner. The authorities of Côte d'Ivoire will therefore have to take the necessary steps to give legal force to the Mediator's determination regarding article 35.

The Mediator therefore requests President Laurent Gbagbo to use the powers granted to the President in terms of the Constitution of Côte d'Ivoire, in particular article 48, to give the necessary legal force to the determination stated above.

Article 48 refers to the execution by Côte d'Ivoire of its international commitments, territorial integrity and the regular functioning of the constitutional authorities, all of which bear on the current situation in Côte d'Ivoire.

These provisions, applied to the current situation in Côte d'Ivoire, provide the constitutional basis for the President of the Republic to take the necessary exceptional measures to give legal force to the Mediator's determination on article 35, after the required consultation with the Presidents of the National Assembly and the Constitutional Council.

The Constitution is the basic law in any country. The Mediator is firmly of the view that the central task facing the Ivorian people is the resolution of the serious emergency that has torn the people and the country apart, led to the death and displacement of many people, as well as the worsening social and economic crisis.

Taking this into account, the Mediator believes that the immediate and urgent challenge confronting the people of Côte d'Ivoire is the achievement of normality and stability through the reunification of the country, the restoration of State administration in all parts of the country, and the holding of free and fair presidential and legislative elections.

It is only after all these objectives have been achieved that consideration should be given to effecting such amendments to the Constitution of Côte d'Ivoire as may be thought necessary. Only in this way would it be possible to ensure that the constitution-making process helps to consolidate peace, stability, democracy and national unity.

I request that the necessary measures should be taken as soon as possible to give legal force to the determination I have made, implementing the decision of the leaders of Côte d'Ivoire, as reflected in paragraph 14 of the Pretoria Agreement.

(*Signed*) Thabo **Mbeki**

cc H.E. President Alpha Omar Konare,
Chairperson of the AU Commission,
AU Headquarters,
Addis Ababa